

FINAL BILL REPORT

ESSB 5746

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Synopsis as Enacted

Brief Description: Modifying sentencing provisions for juveniles adjudicated of certain crimes.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senator Hargrove).

Senate Committee on Human Services & Corrections
House Committee on Human Services

Background: In juvenile offender matters, prior felony adjudications count as one point each on the juvenile disposition grid. Each prior violation, misdemeanor, or gross misdemeanor adjudication counts as one-fourth point. A violation may include any act or omission, which if committed by an adult, must be proved beyond a reasonable doubt, and is punishable by sanctions that do not include incarceration.

Taking a Motor Vehicle Without Permission – First Degree. If a juvenile is adjudicated of the above offense, the court must impose the following minimum sentence:

- prior criminal history score of 0 to 1/2 point – standard sentence range of no less than five days of home detention, 45 hours of community restitution, and a \$200 fine.
- prior criminal history score of 3/4 to 1-1/2 points – standard sentence range of no less than ten days of detention, 90 hours of community restitution, and a \$400 fine.
- prior criminal history score of 2+ points – standard sentence range of no less than 15-36 weeks of confinement, seven days of home detention, four months of supervision, 90 hours of community restitution, and a \$400 fine.

Theft of Motor Vehicle or Possession of Stolen Vehicle. If a juvenile is adjudicated of one of the above offenses, the court must impose the following minimum sentence:

- prior criminal history score of 0 to 1/2 point – standard sentence range that includes either: no less than five days of home detention and 45 hours of community restitution or no home detention and 90 hours of community restitution.
- prior criminal history score of 3/4 to 1-1/2 points – standard sentence range that includes no less than ten days of detention, 90 hours of community restitution, and a \$400 fine.
- prior criminal history score of 2+ points – standard sentence range that includes no less than 15 to 36 weeks of confinement, seven days of home detention, four months of supervision, 90 hours of community restitution, and a \$400 fine.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Taking Motor Vehicle without Permission – Second Degree. If a juvenile is adjudicated of the above offense, the court must impose the following minimum sentence:

- prior criminal history score of 0 to 1/2 point – standard sentence range that includes either no less than one day of home detention, one month of community supervision, and 15 hours of community restitution or no home detention, one month of supervision, and 30 hours of community restitution.
- prior criminal history score of 3/4 to 1-1/2 points – standard sentence range that includes no less than one day of detention, two days of home detention, two months of supervision, 30 hours of community restitution, and a \$150 fine.
- prior criminal history score of 2+ points – standard sentence range of no less than three days of detention, seven days of home detention, three months of supervision, 45 hours of community restitution, and a \$150 fine.

Juveniles charged with a criminal offense and prosecuted in adult court must be prosecuted in adult court for any subsequent offense. This rule applies whether or not the juvenile was actually previously convicted in adult court.

There are three ways by which a juvenile accused of committing an offense can be prosecuted in adult court: discretionary decline hearing; mandatory decline hearing; and statutory exclusion.

Discretionary Decline Hearing. The prosecutor or the juvenile may make a motion requesting that the juvenile be transferred to adult court. The court will set the matter for a hearing on whether the juvenile court should decline jurisdiction in the case. The court may also, on its own motion, set the matter for a decline hearing.

Mandatory Decline Hearing. A hearing on whether a juvenile should be prosecuted in adult court must be held in the following instances:

- the juvenile is 15, 16, or 17 years old and is alleged to have committed a class A felony or an attempt, solicitation, or conspiracy to commit a class A felony;
- the juvenile is 17 and is alleged to have committed assault in the 2nd degree, extortion in the 1st degree, indecent liberties, child molestation in the 2nd degree, kidnapping in the 2nd degree, or robbery in the 2nd degree; or
- the juvenile is alleged to have committed an escape during the time that the juvenile is serving a minimum juvenile sentence to age 21.

After the decline hearing, the court may order the case transferred to adult court if it finds that adult court prosecution would be in the juvenile's or the public's best interest.

Statutory Exclusion. Adult court jurisdiction is automatic when a juvenile is 16 or 17 years old on the date the alleged offense is committed and the alleged offense is one of the following:

- a serious violent offense;
- a violent offense and the juvenile has a criminal history consisting of one or more prior serious offenses, two or more prior violent offenses, or any class A felony, any class B felony, vehicular assault or manslaughter in the 2nd degree, all of which must have been committed after the juvenile's 13th birthday and prosecuted separately;

- robbery in the 1st degree, rape of a child in the 1st degree, or a drive-by shooting;
- burglary in the 1st degree committed on or after July 1, 1997, and the juvenile has a criminal history of one or more prior felony or misdemeanor offenses; or
- any violent offense committed on or after July 1, 1997, and the juvenile is alleged to have been armed with a firearm.

Summary: The standard sentence ranges are changed for the following offenses.

Taking a Motor Vehicle Without Permission - First Degree. If a juvenile is adjudicated of the above offense, the court must impose the following minimum sentence:

- prior criminal history score of 0 to 1/2 point – standard sentence range of three months of community supervision, 45 hours of community restitution, a \$200 fine, and a requirement that the juvenile is confined to a private residence for no less than five days. The juvenile may be subject to electronic monitoring where available. If the juvenile is enrolled in school, the confinement must be served on nonschool days.
- prior criminal history score of 3/4 to 1-1/2 points – standard sentence range of no less than ten days of detention, six months of community supervision, 90 hours of community restitution, and a \$400 fine.
- prior criminal history score of 2+ points – standard sentence range of no less than 15-36 weeks of commitment to Juvenile Rehabilitation Administration (JRA), four months of parole supervision, 90 hours of community restitution, and a \$400 fine.

Theft of Motor Vehicle or Possession of Stolen Vehicle. If a juvenile is adjudicated of one of the above offenses, the court must impose the following minimum sentence:

- prior criminal history score of 0 to 1/2 point – standard sentence range that includes no less than three months of community supervision, 45 hours of community restitution, a \$200 fine, and either 90 hours of community restitution or a requirement that the juvenile remain at home such that the juvenile is confined to a private residence for no less than five days. The juvenile may be subject to electronic monitoring where available;
- prior criminal history score of 3/4 to 1-1/2 points – standard sentence range that includes no less than six months of community supervision, no less than ten days of detention, 90 hours of community restitution, and a \$400 fine.
- prior criminal history score of 2+ points – standard sentence range that includes no less than 15 to 36 weeks of commitment to JRA, four months of parole supervision, 90 hours of community restitution, and a \$400 fine.

Taking Motor Vehicle without Permission - Second Degree. If a juvenile is adjudicated of the above offense, the court must impose the following minimum sentence:

- prior criminal history score of 0 to 1/2 point – standard sentence range that includes three months of community supervision, 15 hours of community restitution, and a requirement that the juvenile is confined to a private residence for no less than one day. The juvenile may be subject to electronic monitoring where available. If the juvenile is enrolled in school, the confinement must be served on nonschool days.
- prior criminal history score of 3/4 to 1-1/2 points – standard sentence range that includes no less than one day of detention, three months of supervision, 30 hours of community restitution, a \$150 fine, and a requirement that the juvenile is confined to a private residence for no less than two days. The juvenile may be subject to

electronic monitoring where available. If the juvenile is enrolled in school, the confinement must be served on nonschool days.

- prior criminal history score of 2+ points – standard sentence range of no less than three days of detention, six months of community supervision, 45 hours of community restitution, a \$150 fine, and a requirement that the juvenile is confined to a private residence for no less than seven days. The juvenile may be subject to electronic monitoring where available. If the juvenile is enrolled in school, the confinement must be served on nonschool days.

Juveniles prosecuted in adult court who are later charged with an offense that is not an offense for which there is an automatic or statutory adult court jurisdiction requirement are to be prosecuted in adult court unless the juvenile was convicted of a lesser charge or acquitted in the previous adult court prosecution or is not otherwise under adult court jurisdiction.

A hearing on whether a juvenile should be prosecuted in adult court must be held in the following instances:

- the juvenile is 16 or 17 years old and is alleged to have committed a class A felony or an attempt, solicitation, or conspiracy to commit a class A felony;
- the juvenile is 17 and is alleged to have committed assault in the 2nd degree, extortion in the 1st degree, indecent liberties, child molestation in the 2nd degree, kidnapping in the 2nd degree, or robbery in the 2nd degree; or
- the juvenile is alleged to have committed an escape during the time that the juvenile is serving a minimum juvenile sentence to age 21.

Votes on Final Passage:

Senate	48	0	
House	97	0	(House amended)
Senate	46	1	(Senate concurred)

Effective: July 26, 2009